

FEBRUARY 5, 2009

KAREN S. MITCHELL

CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

JESUS FARIAS,
a/k/a Jesus Valencia Farias,
a/k/a Jesus B. Farias,

Petitioner,

v. § 2:08-CV-0224

NATHANIEL QUARTERMAN, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,

Respondent.

REPORT AND RECOMMENDATION TO DISMISS
PETITION FOR A WRIT OF HABEAS CORPUS

On December 5, 2009, petitioner tendered to this Court a pleading entitled “Petition to Resolve Pending Detainers.” Such pleading was construed as a petition for a writ of habeas corpus under 28 U.S.C. § 2241. On December 30, 2008, this Court ordered petitioner to file a pleading entitled “Petitioner’s Response to Briefing Order” responding to the following:

1. Identify each detainer you claim is currently on file against you, including the court and cause number of the case relating to each detainer.
2. Identify which detainer or detainers you are challenging by the pleading filed in this case.
3. Attach evidence of each of the detainers either in your possession or which you can obtain from TDCJ. By a Person in State Custody. Petitioner,

Petitioner was ordered to file his response on or before January 9, 2009.

As of this date, petitioner has not filed any response to the Court's Briefing Order and is in

direct disregard of the Court's Order. Further, petitioner has not paid the \$5.00 filing fee in this case, nor has he submitted an application to proceed *in forma pauperis* together with an In Forma Pauperis Data Sheet from the unit in which he is incarcerated. Moreover, petitioner has not communicated with the Court, in any manner, with regard to this case since its filing on December 5, 2008. It is the opinion of the undersigned that petitioner has neglected his case to such an extent that it warrants dismissal.

RECOMMENDATION

It is the RECOMMENDATION of the United States Magistrate Judge to the United States District Judge that the Petition for a Writ of Habeas Corpus filed by petitioner JESUS FARIAS be DISMISSED for want of prosecution.

INSTRUCTIONS FOR SERVICE

The United States District Clerk is directed to send a copy of this Report and Recommendation to each party by the most efficient means available.

IT IS SO RECOMMENDED.

ENTERED this 5th day of February 2009.



CLINTON E. AVERITTE
UNITED STATES MAGISTRATE JUDGE

*** NOTICE OF RIGHT TO OBJECT ***

Any party may object to these proposed findings, conclusions and recommendation. In the event a party wishes to object, they are hereby NOTIFIED that the deadline for filing objections is eleven (11) days from the date of filing as indicated by the "entered" date directly above the signature line. Service is complete upon mailing, Fed. R. Civ. P. 5(b)(2)(B), or transmission by

electronic means, Fed. R. Civ. P. 5(b)(2)(D). When service is made by mail or electronic means, three (3) days are added after the prescribed period. Fed. R. Civ. P. 6(e). Therefore, any objections must be filed on or before the fourteenth (14th) day after this recommendation is filed as indicated by the “entered” date. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b); R. 4(a)(1) of Miscellaneous Order No. 6, as authorized by Local Rule 3.1, Local Rules of the United States District Courts for the Northern District of Texas.

Any such objections shall be made in a written pleading entitled “Objections to the Report and Recommendation.” Objecting parties shall file the written objections with the United States District Clerk and serve a copy of such objections on all other parties. A party’s failure to timely file written objections to the proposed findings, conclusions, and recommendation contained in this report shall bar an aggrieved party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings, legal conclusions, and recommendation set forth by the Magistrate Judge in this report and accepted by the district court. *See Douglass v. United Services Auto. Ass’n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).